

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3
4 IN RE TREMONT SECURITIES LAW,
5 STATE LAW AND INSURANCE
6 LITIGATION

Master File No.:
08 Civ. 11117 (TPG)

7 This Document Relates to:

8 All Actions
9

10 **NOTICE OF INTENTION TO APPEAR AT THE FAIRNESS HEARING AND**
11 **OBJECTION BY THE 2005 TOMCHIN FAMILY CHARITABLE TRUST**
12 **TO THE SETTLEMENT, PLAN OF ALLOCATION, AND REQUESTED**
13 **ATTORNEYS' FEES OR, ALTERNATIVELY, MOTION TO INTERVENE;**
PARTIAL JOINDER IN LAKEVIEW AND SPECTRUM OBJECTIONS

14 In 2008, the 2005 Tomchin Family Charitable Trust ("Tomchin") became a
15 limited partner in Rye Select Broad Market XL Fund, L.P. (the "XL Fund") by
16 purchasing limited partnership interests unregistered under the federal securities laws.
17 By the end of the year, Tomchin lost over \$1.7 million due to its XL Fund investment.
18 Tomchin intends to seek redress for harm done not only to itself but also, by way of
19 derivative claims asserted on its behalf, to the XL Fund as well. Accordingly, for
20 reasons set forth in the objections filed by Lakeview Investment, LP ("Lakeview"),
21 Spectrum Select II, L.P. and Spectrum Equities, L.P. ("Spectrum"), Tomchin requests
22 that the Court not approve any of the proposed settlement terms which would or could
23 adversely affect Tomchin's rights as a limited partner of XL Fund, even if the Court
24 did grant its request to be excluded from the Settlement Class. Tomchin thus submits
25 this partial joinder in the objections filed by Lakeview and Spectrum, but only insofar
26 as those objections relate to the protection of Tomchin's rights and interests, including
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1 but not limited to its direct and derivative claims involving XL Fund, which would or
2 could be prejudiced even if the Court did grant its request to be excluded from the
3 Settlement Class. If the Court were to determine that Tomchin's request for exclusion
4 precludes such a partial joinder in objections filed by others, Tomchin would
5 withdraw its partial joinder and simply opt out.

6 Tomchin initially contributed \$600,000 in capital to XL Fund on January 31,
7 2008, and made an additional capital contribution in the amount of \$1,000,000 to XL
8 Fund on June 23, 2008. The Tomchin Trust did not receive a distribution from XL
9 Fund. As of October 31, 2008, the amount of Tomchin's capital account balance in
10 XL Fund, as reported by XL Fund and its agents and affiliates, was \$1,716,198.81.
11 Tomchin is not certain as to its capital account balance in XL Fund as of November
12 30, 2008, as it has not received a statement from XL Fund to date.

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14 Dated: May 11, 2011

15 **MCLAUGHLIN & STERN, LLP**

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17 By: 

18 Lee S. Shalov

19 260 Madison Avenue
20 New York, NY 10016
21 Telephone: (212) 448-1100
22 Facsimile: (212) 448-0066

23 **ROZWOOD & COMPANY APC**

24 S. Benjamin Rozwood
25 503 North Linden Drive
26 Beverly Hills, CA 90210
27 Telephone: (310) 246-1451
28 Facsimile: (310) 246-9786

**ATTORNEYS FOR 2005 TOMCHIN
FAMILY CHARITABLE TRUST**